

APR 19 2004

09/777,631

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KOHRS Examiner: B. SNOW  
Serial No.: 09/777,631 Group Art Unit: 3738  
Filed: FEBRUARY 6, 2001 Docket No.: 6683.26USC1  
Title: INTERVERTEBRAL IMPLANT WITH REDUCED CONTACT AREA  
AND METHOD

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 15, 2004.

By: *Carla J. Mauch*  
Name: Carla J. Mauch

TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION

23552

PATENT TRADEMARK OFFICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

07/20/2004 THAK1H 00000002 132725 09777631  
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Petitioner, Sulzer Spine-Tech Inc., a corporation organized and existing under the laws of the State of Texas and having its primary place of business at 4000 Technology Drive, in the city of Angleton, and the state of Texas represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 09/777,631, filed on February 6, 2001 and entitled INTERVERTEBRAL IMPLANT WITH REDUCED CONTACT AREA AND METHOD, by virtue of our assignment recorded at Reel 9252, Frame(s) 0040.

Petitioner, Sulzer-Spine Tech Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,224,631 B1 and hereby agrees that any patent so granted on the above-identified application

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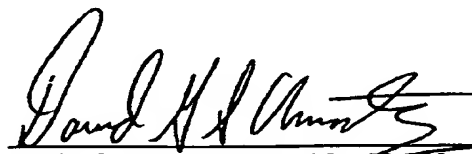
shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,224,631 B1, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent No. 6,224,631 B1, in the event that United States Patent No. 6,224,631 B1 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 4/14/04

  
David G. Schmaltz Reg. No. 39,828  
Applicant's Attorney